

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

GAYLORD CONTAINER CORPORATION

AI # 38936

PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.

\* Settlement Tracking No.  
\* SA-AE-05-0068  
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\* Enforcement Tracking No.  
\* AE-CN-04-0013  
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SETTLEMENT

The following Settlement is hereby agreed to between Gaylord Container Corporation ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who operates a paper mill known as the Bogalusa Mill located at or near Fourth Street and Avenue U in Bogalusa, Washington Parish, Louisiana ("the Facility").

II

On September 30, 2004, the Department issued a Consolidated Compliance Order & Notice Of Potential Penalty, Enforcement No. AE-CN-04-0013 to Respondent, which was based upon the following findings of fact:

## IIa

The facility operated under Air Permit No. 3060-00001-V0 issued on March 18, 1999, and was appealed. The facility also operated under Air Permit No. 3060-00001-V1 issued on August 1, 2000. An Administrative Amendment to Air Permit No. 3060-00001-V1 was issued on December 22, 2000. The facility operated under Air Permit No. 3060-00001-V2 issued on September 18, 2001. Air Permit No. 3060-00001-V3 was issued on November 23, 2004.

## IIb

On or about August 19 through August 21, 2003, and September 18, 2003, inspections of the Respondent's Bogalusa Mill were performed to determine the degree of compliance with the Act and the Air Quality Regulations. In response to the inspections, the Respondent submitted a letter dated September 24, 2003. The Department sent a Warning Letter dated January 21, 2004, to the Respondent.

## IIc.

The Respondent requested a meeting with the Department in response to the issuance of the Warning Letter to discuss the areas of concern noted during the inspections. On or about March 2, 2004, a meeting was held with the Respondent in which the Respondent presented additional details, corrective actions, and mitigating circumstances for the noted areas of concern.

At the time of the meeting, the Respondent also presented a letter dated March 1, 2004. The Department noted during the meeting that while conducting a file review of the Respondent's facility on or about February 4, 2004, to determine the degree of compliance with the Act and the Air Quality Regulations, issues were noted that required further information. The Respondent agreed to supply this information in regard to the issues raised during the meeting.

## IId

The Respondent submitted the additional information to the Department in a letter dated March 31, 2004, in regard to the issues discussed during the March 2, 2004 meeting. The Department reviewed the Respondent's responses and took them into consideration.

## IIf

While the Department's investigation is not yet complete, the following violations were noted during the course of the inspections:

- A. Recovery Furnace No. 21 (Emission Point 22) is equipped with a Continuous Emission Monitor (CEM) to measure Total Reduced Sulfur (TRS) Compounds in the stack emissions. In accordance with 40 CFR 60.285(d)(1), the Respondent is required to use 40 CFR 60, Appendix A, Method 16. The cylinder of gas used for instrument calibration was found to have expired on March 25, 2003. According to the Respondent's response to the inspection dated September 24, 2003, a new bottle of calibration gas was ordered immediately, and the expired calibration gas bottle was replaced as soon as the new bottle was delivered. By using expired calibration gas, the Respondent failed to properly perform 40 CFR 60, Appendix A in order to measure TRS in the stack emissions as required by 40 CFR 60.285(d)(1). This is a violation of 40 CFR 60.285(d)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.3003.A, Part 70 Specific Condition 1 as stipulated in Table 3 of Air Permit No. 3060-00001-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act. Furthermore, the Respondent failed to properly operate and diligently maintain the continuous emission monitor in proper working order. This is a violation of LAC 33:III.905.
- B. The Hogged Fuel Boiler No. 10C (Emission Point 06) is equipped with a bypass stack to be used in the event of a wet-scrubber failure. According to the Respondent in a September 24, 2003 letter, an automatic damper is present to restrict the flow of gas into the bypass stack. During the inspection it was noted that the wet-scrubber, which is used as the control device for this boiler and constitutes BACT, was functioning properly. However, emissions were noted from the bypass stack. The Respondent explained that during their investigation of the No. 10C bypass stack and by extension, the Hogged Fuel Boiler No. 12 (Emission Point 21) bypass stack, it was determined that the main stacks of the boilers were made of fiberglass reinforced plastic (FRP)

and were designed with an upper temperature limit. According to the Respondent, the bypass stacks and automatic damper control systems were installed to prevent a temperature-induced catastrophic failure of the main FRP stacks and the potential subsequent catastrophic over-pressurizing of the boiler. The Respondent explained in the letter dated September 24, 2003, that in designing the system, dampers that allowed a 100 percent seal at the bypass stacks could not be found that were thought to open fast enough to protect the stack (and boiler) in the event of high temperatures. The Respondent also noted in the letter that the bypass stacks were not included in the original Title V permit, but were included in the Title V renewal application dated September 17, 2003. The letter also noted that a project was initiated to replace the main FRP stacks on boiler No. 10C and No. 12 with stainless steel stacks and eliminate the bypass stacks completely. In the Respondent's letter dated March 1, 2004, it was noted that to eliminate the need for a bypass stack altogether, the main stack on the No. 10C boiler was replaced with a stainless steel stack. The replacement was completed in December 2003 and eliminated the bypass stack. The No. 10C bypass stack and No. 12 boiler bypass stack were not permitted emission sources. Each failure to receive prior approval from the permitting authority before construction, modification or operation of a facility which ultimately may result in an initiation or increase in emission of air contaminants is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- C. Records pertaining to gas venting events kept in accordance with the facility Startup, Shutdown, and Malfunction Plan did not indicate the duration of the venting events. Each failure to document the duration of the venting events for each startup, shutdown, or malfunction of operation is a violation of 40 CFR 63.10(b)(2)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.5122.A, Part 70 Specific Condition 1 as stipulated in Table 2 of Air Permit No. 3060-00001-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

## IIc

While the Department's investigation is not yet complete, the following violations were noted during the course of the file review performed on or about February 4, 2004:

- A. The Respondent reported in the Quarterly Permit Deviation and Exceedance Report dated September 25, 2003, which was also

attached to the Title V Semiannual Monitoring Report dated September 26, 2003, that on June 22, 2003, the daily visual inspection for opacity for the Sawdust Cyclone (Emission Point 61A) was not conducted as required. The failure to conduct the visual inspection for opacity for the Sawdust Cyclone is a violation of Part 70 Specific Condition No. 4 of Air Permit No. 3060-00001-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- B. The Respondent reported in the Quarterly Permit Deviation and Exceedance Report dated September 25, 2003, which was also attached to the Title V Semiannual Monitoring Report dated September 26, 2003, that on June 25, 2003, titration of the black liquor exiting the BLOX system on the second shift was not performed for the Recovery Furnace No. 20 (Emission Point 20). The Respondent failed to perform titration of the black liquor exiting the BLOX system once per shift. This is a violation of State Only Specific Condition 1 as stipulated in Table 3 of Air Permit No. 3060-00001-V2, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- C. The Department has no record that semiannual continuous emissions monitoring reports required by 40 CFR 60.7(c) (General Provisions) have been submitted to the Department for the year 2003 and prior years for which the reports are required. Recovery Furnace No. 21 (Emission Point 22) is equipped with a Continuous Emission Monitor (CEM) to measure Total Reduced Sulfur (TRS) Compounds in the stack emissions and a Continuous Monitoring System (CMS) for opacity and oxygen. The semiannual reports are for the Recovery Furnace No. 21 which is subject to 40 CFR 60 Subpart BB. The subpart defines, in 40 CFR 60.284(d), the periods of excess emissions which are to be reported in the semiannual reports required by 40 CFR 60.7(c). Though the required semiannual reports have not been submitted, the Respondent has reported recovery furnace excess emissions periods as deviations in the Title V semiannual monitoring reports and in Quarterly Deviation Reports for General Condition R and XI of the air permits. However, the Respondent's reported information does not include all of the information required in the semiannual CEM reports required by 40 CFR 60.7(c). Each failure to submit the semiannual CEM reports to the Department containing all required information is a violation of 40 CFR 60.7(c) which has been adopted as a Louisiana regulation in LAC 33:III.3003; Part 70 Specific Condition 1 as stipulated in Table 2 of Air Permit Nos. 3060-00001-V0, 3060-00001-V1, and 3060-00001-V2; LAC 33:III.501.C.4; and Section 2057(A)(2) of the Act.

D. The Department has no record that semiannual continuous emissions monitoring (CEM) reports required by 40 CFR 60.7(c) (General Provisions) have been submitted to the Department for the year 2003 and prior years for which the reports are required. Package Boiler No. 11 is equipped with a Continuous Emission Monitor (CEM) to measure nitrogen oxides (NO<sub>x</sub>) in the stack emissions. The CEM semiannual reports are required for Package Boiler No. 11 (Emission Point 24) which is subject to 40 CFR 60 Subpart Db. Subpart Db requires in 40 CFR 60.49b(h) that excess emission reports should be submitted. Though the required semiannual reports have not been submitted, the Respondent has reported boiler excess emissions periods of a twelve-hour pound per hour average as deviations in the Title V semiannual monitoring reports and in Quarterly Deviation Reports for General Condition R and XI of the air permits. To determine compliance with the NO<sub>x</sub> emission limits, in accordance with 40 CFR 60.44b, a 30-day rolling average basis is to be used. However, the Respondent's reported information does not include all of the information required in the semiannual CEM reports required by 40 CFR 60.7(c). Each failure to submit the semiannual CEM reports to the Department containing all required information is a violation of 40 CFR 60.7(c) which has been adopted as a Louisiana regulation in LAC 33:III.3003; Part 70 Specific Condition 1 as stipulated in Table 2 of Air Permit Nos. 3060-00001-V0, 3060-00001-V1, and 3060-00001-V2; LAC 33:III.501.C.4; and Section 2057(A)(2) of the Act.

### III

The Respondent submitted a response dated December 6, 2004, to the Consolidated Compliance Order & Notice of Potential Penalty in which the Respondent noted that the semiannual CEM reports required by 40 CFR 60.7(c) were submitted up until the first half of 2000 for both the Recovery Furnace No. 21 and the Package Boiler No. 11. The Respondent explained that a portion of the required information was submitted in the Part 70 deviation reports for six (6) reporting periods, specifically, the second half of 2000, the first and second halves of both 2001 and 2002, and the first half of 2003. The Respondent also explained in the letter that it was mistakenly believed that the CEM reports required by 40 CFR 60.7(c) should be combined

with Part 70 deviation reports upon issuance of the Bogalusa Mill's initial Title V Permit. Furthermore, the Respondent noted in the letter that the reports have been properly submitted with the required format for these sources since the second half of 2003.

#### IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

#### V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00), of which SEVEN HUNDRED FIFTY SEVEN AND 81/100 DOLLARS (\$757.81) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

#### VI

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order & Notice Of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

## VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

## VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

## IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Washington Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the



Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

#### XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

#### XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

**GAYLORD CONTAINER CORPORATION**

BY: T. Wayne Morgan  
(Signature)

T. Wayne Morgan

(Printed or Typed)

TITLE: General Manager

THUS DONE AND SIGNED in duplicate original before me this 2nd day of February, 2006, at Bogalusa, Louisiana.

R. Bradley Lewis  
NOTARY PUBLIC (ID #08657)

R. Bradley Lewis  
(Printed or Typed)

**LOUISIANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

Mike D. McDaniel, Ph.D., Secretary

BY: Harold Leggett  
Harold Leggett, Ph.D., Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 21<sup>st</sup> day of April, 2006, at Baton Rouge, Louisiana.

Randall S. Beck  
NOTARY PUBLIC (ID # 27771 )

Randall S. Beck  
(Printed or Typed)

Approved: Harold Leggett  
Harold Leggett, Ph.D., Assistant Secretary